



Court of Appeal frequently asked questions

1. How do I appeal?

A. Which court should I appeal to?

Appealing against a conviction

You can only appeal against a conviction to the Court of Appeal if you were convicted at the Crown Court. If you were convicted in the magistrates' court, you need to appeal to the Crown Court (or possibly to the Administrative Court) and you should speak to the magistrates' court for advice on how to appeal.

Appealing against a sentence

If you were sentenced at the Crown Court, you can appeal against your sentence to the Court of Appeal (even if you were convicted in the magistrates' court).

Appealing against a confiscation order

If the confiscation order was imposed by the Crown Court, you can appeal against it to the Court of Appeal (even if you were convicted in the magistrates' court).

B. How can I get legal advice about making an appeal?

If you had a solicitor or barrister representing you at court through public funding (in other words, under a representation order), they must give you advice (in writing if you ask for it) about whether or not there are good reasons for an appeal against a conviction or sentence. A copy of this advice should be sent to you immediately. If they think there are good reasons, known as grounds, they will fill in the form (see part C below) for you and send it to the Crown Court. The representation order will usually cover your solicitors and barrister providing advice and help up to the stage when your application is received back from a judge with a decision on whether you should have permission to appeal and, if refused, whether you should renew that application (see 3D and 3E below).

If you have already had advice from your barrister or solicitor saying there are no grounds for appeal, you don't have the right to public funding to get more advice from a different barrister or solicitor. However, in some rare circumstances it may be possible for new legal representatives to be given public funding from the Legal Aid Agency (LAA) to give you advice.

The Legal Aid Agency website is at www.legalservices.gov.uk. Community Legal Advice is the LAA helpline offering free, confidential and independent legal advice. Their number is 0845 345 4345. If you are not in custody, you could also speak to Citizens Advice.

You can pay privately to get advice from another firm of solicitors or another barrister.

If you do not want legal advice or your representatives have told you there are no grounds of appeal but you still want to appeal, you can fill in form NG (see the next section) giving your own reasons and send it to the Crown Court where you were convicted or sentenced.

C. What forms do I need to use?

You can make an appeal by filling in a form NG, giving the reasons why you think the conviction is unsafe or the sentence is too long considering the offence and the circumstances. These reasons are known as the grounds of appeal. It is not a proper ground of appeal just to say that a sentence is too long or a conviction is unsafe – you must explain the reasons why you think the sentence is wrong or the conviction is unsafe.

Once you have filled in form NG and included your grounds of appeal, you should send it to the Crown Court where you were convicted or sentenced. The Crown Court will then copy all the documents used at the trial and send them, with form NG, to the Criminal Appeal Office, which provides administrative support to the Court of Appeal. You can find contact details for the Criminal Appeal Office in paragraph D below.

If you want to apply for legal aid for a barrister or solicitor advocate to represent you at the appeal hearing if the judge gives you permission to appeal, you should tick the relevant box on form NG. There is no need to supply any more information at this stage.

If you want to ask for bail while your appeal papers are being processed, you need to tick the appropriate box on form NG and fill in form B. Provide this with your form NG to the Crown Court where you were convicted. If you decide to apply for bail after you have sent off your form NG, send form B direct to the Criminal Appeal Office.

If you want to ask for a witness to appear in court for your appeal (usually for conviction matters only), you need to tick the appropriate box on form NG and fill in form W. You should send this with your form NG to the Crown Court where you were convicted.

Other forms used in the Court of Appeal

If you have started an appeal, but do not want to go ahead with it or part of it, you may abandon all or part of the proceedings by filling in form A and sending it to the Criminal Appeal Office.

If you were granted leave to appeal, but your appeal is dismissed and you want to appeal to the Supreme Court (see 3I below), you must use form SC, which you should send to the Criminal Appeal Office.

D. Where can I get the forms from?

You can get form NG (notice and grounds of appeal), form B (asking for bail) and form W (asking for a witness to attend court) from any Crown Court, from our website at <http://hmctsformfinder.justice.gov.uk/HMCTS/FormFinder.do> or from a prison officer.

You can get form A (abandoning your appeal or part of your appeal) or form SC (asking for permission to appeal to the Supreme Court) from the Justice website (as above) or from the Criminal Appeal Office. Write to:

Customer Service Officer

Criminal Appeal Office

Royal Courts of Justice

Strand

London WC2A 2LL

Phone: 020 7947 6011

Email: criminalappealoffice.generaloffice@hmcts.x.gsi.gov.uk

E. What are the time limits for sending in my form?

You must send form NG to the Crown Court or, if you are in custody, hand it to a prison officer, within 28 days from the date of your conviction (for appeals against a conviction) or within 28 days from the date of your sentence (for appeals against your sentence).

If confiscation proceedings have been adjourned (and so any confiscation order is imposed on a different date from your sentence), you should appeal the confiscation order within 28 days of that order being made.

If you are going to be outside the time limits, you need to ask for an 'extension of time' (in other words, permission to send the form in late). You need to send in form NG containing your grounds of appeal and also the reasons why you were late in sending the form in. We cannot accept reasons for an extension of time on their own without the grounds of appeal (part 36.4 of the Criminal Procedure Rules).

2. How long will my appeal take?

A. How long will my appeal take overall?

There are a number of different factors which affect the time an appeal will take (see 2B below). At the moment, our targets are as shown below.

We aim, on average, to process straightforward conviction cases (in other words, from when we receive the form in the Criminal Appeal Office to the final court hearing):

- within 10 months if permission to appeal was granted by a judge; or
- within 13 months if permission to appeal was refused by a judge.

We aim, on average, to process straightforward sentence cases (in other words, from receiving the form in the Criminal Appeal Office to the final court hearing) within five months.

However, the appeal process is in two stages.

The first stage is getting the papers to a judge ('the single judge') so she or he can decide, from looking at the papers, whether to grant permission to appeal (See 2C below for how long it takes to get a decision from the single judge). In some legal documents, 'permission to appeal' is referred to as 'leave to appeal'.

The second stage is preparing the case for a hearing in court.

B. What can affect how long my appeal takes?

Length of sentence – we will try to get your case heard in court before your release date but this is not always possible. For appeals against a sentence, we generally deal with cases with a shorter sentence more quickly than cases with a longer sentence.

Complexity – if a case is very complicated, it will usually take longer.

Co-appellants – if your appeal is linked to someone else's, it may take longer, for example, if there are some issues relating to their file which are not proceeding as quickly as would be expected.

Your personal characteristics – we will take these into account if appropriate, for example, if you are very young or old or suffering from a serious illness.

C. How long will my appeal take to get to a single judge?

Depending on the factors set out above (in 2B), we try to make sure that straightforward sentence cases are sent to our List Office for allocating to a single judge within five to six weeks of receiving them in the Criminal Appeal Office. We aim to send straightforward conviction cases to our List Office for allocating them to a judge within five months of receiving them.

Our List Office will do their best to send papers to a single judge as soon as possible. However, at various times (particularly Christmas, Easter and in August and September) there is limited availability of judges. This means there is sometimes unavoidable delay in sending the papers to a judge.

Judges usually make their decision and return the papers to the List Office within a month.

3. What stages does my appeal have to go through?

A. We receive the form at the Criminal Appeal Office

We will give your case a reference number and send confirmation that we have received the form. We will put the case details on our database and make a file up. The file is usually sent

within two days to one of our casework sections (called sections A, B, or C). We will assign a case officer to make sure that your case is progressed efficiently through the process. When dealing with the Criminal Appeal Office you should always quote the unique case reference number, which will allow staff to identify the case officer dealing with your case.

B. The casework section prepares the papers to send to a judge

The casework section will make sure they have all the papers the judge will need to make a decision whether or not to give permission to appeal. This may take some time. They may need to get further papers from the Crown Court or your solicitors or barrister. They will also have to get a typed-up record (transcript) of what happened at the relevant time at the Crown Court. If the appeal is against a conviction, they may have to send a copy of the transcript to your barrister for them to 'perfect' the grounds of appeal by referring to the transcript.

If your grounds of appeal include a complaint about the way you were represented at trial by your barrister or solicitors, the Registrar of Criminal Appeals may ask you to 'waive privilege' (in other words, agree to give up your right to confidentiality between you and your legal representatives at the Crown Court) so that your complaints may be investigated. If you do waive privilege, we will ask your legal representatives at trial to comment on your complaints and they may give details of the advice that you were given and the instructions they received from you. If they do make these comments, we will send these to you. All this correspondence will be included with the papers sent to the judge.

Occasionally, it will be necessary to ask the Crown Prosecution Service or their barrister to comment on your grounds of appeal (Criminal Procedure Rules, part 39.6) before they are sent to a judge.

C. The papers are sent to a judge

The casework group will send the papers to our List Office, which deals with allocating all papers to judges. (See 2C above.) Once the judge has made a decision, the papers are returned to the List Office and from there to the casework section. The judge may grant or refuse leave to appeal or, sometimes but not often, may refer the case to the Full Court of Appeal without having made a decision either way.

D. If permission to appeal is granted or referred

If the judge grants permission to appeal or the case is being referred to the Full Court of Appeal, a representation order is usually granted by either the judge or the Registrar. This will give you public funding for a barrister to represent you while you continue with the appeal (unless you are paying privately). We will send a copy of the order to you and your barrister and will supply a copy of the relevant case papers to your barrister.

A case summary will be written to help the judges at the full hearing of the appeal. If your case is very complicated it can take some time to complete the summary. We will send a copy of the case summary to your barrister or to you if you don't have a barrister acting for you.

Once the summary has been written, all the papers will be copied for the judges and the case details will be sent to our List Office for them to set a hearing date.

E. If permission to appeal is refused

If permission is refused, we will send you a copy of the judge's decision and you will need to sign and hand the form to a prison officer or return it to us within 14 days of receiving it if you want to renew your application. (In other words, you need to do this if you want the Full Court of Appeal to consider whether you should be given permission to appeal.)

If the judge has refused permission, they may also have initialled a box on the form for the Full Court to consider loss of time. This means that the judge thinks that the points you have made have no merit and if you renew them, the Full Court should consider ordering loss of time (see paragraph H below). On the renewal form you can write why you think a loss of time order should not be made. However, the Full Court can make a loss of time order whether or not the judge has initialled the box on the form. The Full Court can also make a costs order which would include the cost of any transcript.

You do not have a right to public funding for a barrister to represent you if your application is being renewed. You may be able to find a barrister who will represent you for free (pro bono) or you may be able to pay a barrister privately to represent you. If you do not have a barrister, the Full Court will still consider your case by looking at all the papers and then making a decision, which they will announce in open court (see G below).

As above (3D), a case summary will be written and the papers copied before we send the case details to our List Office for them to set a hearing date.

If you do not renew your application, we will arrange for the case to be closed and we will send a letter confirming this.

F. Setting a hearing date

If you were given permission to appeal or your case was referred to the court or if you have renewed your application after it was refused, the next stage is for a date to be set for your case to be considered by the full Court of Appeal. The List Office will contact your barrister if you are being represented at the hearing. They will try to set a hearing date as quickly as possible. The List Office have guidelines as to how long a case should take to list. They aim to list sentence cases within 28 days of receiving them in the List Office and aim to list conviction cases within 63 to 80 days of receiving them in the List Office depending on the complexity and whether witnesses are to attend.

We will send you a letter telling you the date which has been set.

G. The hearing

This will usually be heard at the Royal Courts of Justice in London in open court – in other words a courtroom open to the public. There will usually be three judges to decide an appeal

against conviction, but an appeal against sentence or an application for permission to appeal may be heard by two or three judges.

If you have been given permission to appeal, you have a right to 'attend' the hearing of the appeal (but not any other proceedings such as a Directions Hearing). If you do not want to attend, you should write to the Criminal Appeal Office to say so. Sometimes the court may either order you to attend or agree that you may attend by video link to the court rather than attending in person. However, video-link facilities are limited so not everybody can use them.

If permission to appeal has not been granted and the Full Court is considering your renewed application for permission, you do not have a right to attend.

H. The decision of the court

If permission to appeal has been granted (either by a single judge or the Full Court), the court will either allow or dismiss the appeal. This decision is final.

If permission to appeal has not been granted by a single judge, the court will either grant permission to appeal (see below) or refuse it, in which case the decision is final.

If an application is refused the Criminal Courts Charge will apply. The charge is £150. If an appeal is dismissed, the charge is £200.

If the single judge refused permission to appeal but the Full Court grants permission, they will usually grant you public funding for a barrister to represent you and will ask for another hearing date to be set. Occasionally, the Full Court may decide your case there and then if your appeal is against your sentence and the judges feel that your sentence should be reduced. If you are represented at the hearing, your representative will be asked to agree that the court should proceed immediately to hear the appeal and the court's decision on the appeal is final even though you did not attend the hearing. If you were not represented, you will be told the court's decision and, if there are fresh matters which the court was not aware of and which may have made a difference to their decision, you may apply to have your appeal reconsidered by the court in your presence.

If the Full Court refuses permission to appeal, they may also order that some or all of the time you have spent in custody as an appellant should not count towards your sentence. The court will only make an order if it considers that the application for permission is totally without merit and it may do so even if a barrister has advised that you should appeal.

I. After the hearing

Whether or not you were at the hearing, a copy of the court order will be sent to you.

If the Full Court has dismissed your appeal or refused permission to appeal, your appeal is at an end. If you have matters which you did not raise at your appeal, you can apply to the Criminal Cases Review Commission (CCRC), asking for your case to be referred back to the Court of Appeal. The CCRC's address is 5 St Philip's Place, Birmingham, B3 2PW. Their

phone number is 0121 233 1473. You can also find information on their website at www.ccrcc.gov.uk

If your appeal has been dismissed (but not if permission to appeal has been refused), you can ask the Court of Appeal to confirm that a point of law of general public importance was involved in the decision and ask for permission to appeal to the Supreme Court (formerly the House of Lords). You cannot appeal to the Supreme Court unless the Court of Appeal confirms that there is a point of law of general public importance involved – that is, a point that the Supreme Court needs to consider because it would affect lots of cases, not just your case.

If you want to appeal to the Supreme Court, you need to use form SC (see 1B).

4. I want to abandon my appeal. How do I do this?

If you decide at any stage that you don't want to continue with your appeal or want to give up on part of your appeal, you must confirm this by filling in and sending us form A (see 1C). It is not enough just to send a letter or speak to someone on the phone.

5. How do I complain?

The HM Courts & Tribunals Service leaflet EX343 'Unhappy with our service – what can you do?' sets out all the details on this. You can find a copy of this leaflet on our website at www.gov.uk/government/organisations/hm-courts-and-tribunals-service/about/complaints-procedure

You can also phone us and ask for a copy. Speak to one of our customer service officers on 020 7947 6011 or write to the Customer Service Officer, Criminal Appeal Office, Royal Courts of Justice, Strand, London, WC2A 2LL. Or, you can send an email to: criminalappealoffice.generaloffice@hmcts.x.gsi.gov.uk

